

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Joshua Cowell,

Case No. 5:22-cv-2084

Petitioner,

v.

ORDER

Clark Scott, Warden,

Respondent.

Petitioner Joshua Cowell¹ requests permission to proceed with an appeal without first paying the filing fee. I previously denied Cowell's § 2254 petition and declined to issue a certificate of appealability. (Doc. No. 14). Cowell seeks to challenge that decision on appeal. (Doc. No. 18).

Section 1915 provides “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). The standard for granting a motion to proceed in forma pauperis on appeal is lower than the standard for issuing a certificate of appealability. *See Foster v. Ludwick*, 208 F. Supp. 2d 750, 764 (E.D. Mich. 2002) (citing *United States v. Youngblood*, 116 F.3d 1113, 1115 (5th Cir. 1997)). A court may grant a motion to proceed in forma pauperis if the issues are arguable on their merits, even if the petitioner cannot show a probability of success on the merits. *Foster*, 208 F. Supp. 2d at 765.

¹ Cowell currently is incarcerated at the Belmont Correctional Institution in St. Clairsville, Ohio, where Clark Scott is the acting Warden. The Clerk of Court is ordered to substitute Scott as the Respondent in this case. Fed. R. Civ. P. 25(d).

I conclude the issues Cowell raises are arguable on their merits, even if he cannot show a probability of success on the merits. Therefore, I grant his motion to proceed in forma pauperis on appeal. (Doc. No. 18).

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge